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Paper No.

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JUN 19 2008

OFFICE OF PETITIONS

In re Patent No. 7,286,216 : DECISION ON
Fukuhara et al. : REQUEST FOR RECONSIDERATION
Issue Date: October 23, 2007 : OF PATENT TERM ADJUSTMENT
Application No. 10/650,013 : AND
Filed: August 28, 2003 : NOTICE OF INTENT TO ISSUE
Atty Docket No. 04329.3122 : CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT" filed December 21, 2007. Patentees request correction of the Patent Term Adjustment printed on the face of the patent from two hundred thirty-two (232) days to two hundred fifty-five (255) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED to the extent indicated herein.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred sixty-five (265) days.

On October 23, 2007, the above-identified application matured into U.S. Patent No. 7,286,216. The instant request for reconsideration filed December 21, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 232 days. Patentees dispute the reduction of 57 days, associated with the Information Disclosure Statement (IDS) filed on July 25, 2007. Patentees state that the IDS was acknowledged by the examiner on August 16, 2007. Moreover, patentees state that the

acknowledgment mailed September 19, 2007 was directed to another IDS (filed prior to the mailing of the notice of allowance). In effect, patentees argue that the period of reduction for the IDS should be calculated beginning on July 25, 2007 and ending on August 16, 2007 (not September 19, 2007).

Patentees' argument is well taken. 37 CFR 1.704(c) provides, in pertinent part, that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or

(ii) Four months; ...

The IDS was filed on July 25, 2007. A 1449, the acknowledgment of the IDS, is in the image file wrapper with a date of August 17, 2007. The examiner has confirmed that the 1449 signed August 16, 2007, should have been mailed on August 17, 2007. A review of the record further confirms that as stated by patentees the 1449 mailed September 19, 2007 was not directed to the IDS filed on July 25, 2007. Thus, the period of reduction pursuant to 37 CFR 1.704(c)(10) is properly calculated as the number of days beginning on July 25, 2007 and ending on August 17, 2007¹. Accordingly, the correct period of reduction is 24 days, not 57 days.

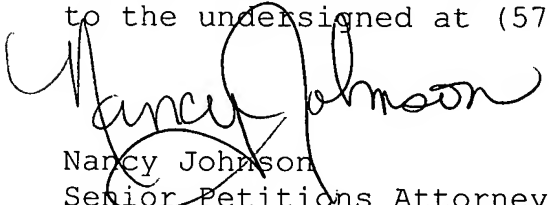
¹ The basis for patentees' argument that the correct PTA is 255 days is unclear. It is noted that patentees' arguments for reconsideration of the PTA have been found persuasive, except the period of reduction is July 25, 2007 to August 17, 2007 (not August 16, 2007).

In view thereof, the patent term adjustment indicated on the patent should be TWO HUNDRED SIXTY-FIVE (265) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by TWO HUNDRED SIXTY-FIVE (265) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: DRAFT Certificate of Correction

Day : Monday
Date: 6/16/2008

PALM INTRANET

Time: 20:14:16

PTA Calculations for Application: 10/650013

Application Filing Date:	08/28/2003	PTO Delay (PTO):	440
Issue Date of Patent:	10/23/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	208
Post-Issue Petitions:	0	Total PTA (days):	265
PTO Delay Adjustment:	33		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
78	06/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		24	
77	06/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	57		
73.5	10/03/2007	PTA 36 MONTHS			
73	10/23/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
72	09/24/2007	EXPORT TO FINAL DATA CAPTURE			
71	09/20/2007	DISPATCH TO FDC			
70	09/19/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
69	09/14/2007	ISSUE FEE PAYMENT VERIFIED			
68	09/19/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
67	09/18/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
66	09/14/2007	ISSUE FEE PAYMENT RECEIVED			
65	07/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	07/25/2007	REFERENCE CAPTURE ON IDS			
63	07/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		57	68
62	08/01/2007	FINISHED INITIAL DATA CAPTURE			
61	07/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	07/10/2007	EXPORT TO INITIAL DATA CAPTURE			
59	07/05/2007	MAIL NOTICE OF ALLOWANCE			
58	06/28/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
57	06/25/2007	DOCUMENT VERIFICATION			

56	06/25/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	06/25/2007	NOTICE OF ALLOWABILITY			
54	03/01/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	06/14/2007	DATE FORWARDED TO EXAMINER			
52	06/05/2007	AMENDMENT AFTER FINAL REJECTION			
51	03/01/2007	NEW OR ADDITIONAL DRAWING FILED			
50.7	03/01/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		91	45
50	03/01/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	03/05/2007	MAIL FINAL REJECTION (PTOL - 326)			
48	03/01/2007	FINAL REJECTION			
47	02/07/2007	CASE DOCKETED TO EXAMINER IN GAU			
46	12/18/2006	DATE FORWARDED TO EXAMINER			
45	11/30/2006	RESPONSE AFTER NON-FINAL ACTION		30	43
44	11/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	07/31/2006	MAIL NON-FINAL REJECTION			
42	07/24/2006	NON-FINAL REJECTION			
41	05/18/2006	DATE FORWARDED TO EXAMINER			
40	05/11/2006	RESPONSE AFTER NON-FINAL ACTION		30	38
39	05/11/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	01/11/2006	MAIL NON-FINAL REJECTION	440		-1
37	01/09/2006	NON-FINAL REJECTION			
36	06/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	03/23/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	12/07/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	01/30/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	11/06/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	12/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
24	10/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	08/02/2005	CASE DOCKETED TO EXAMINER IN GAU			

22.7	06/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	06/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
20.7	03/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19.7	12/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	12/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	08/18/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17.7	01/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	01/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	11/06/2003	REFERENCE CAPTURE ON IDS			
15.7	11/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	11/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	08/28/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
13	08/18/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	06/24/2004	TRANSFER INQUIRY TO GAU			
11	03/16/2004	APPLICATION RETURN FROM OIPE			
10	03/16/2004	APPLICATION RETURN TO OIPE			
9	03/15/2004	APPLICATION DISPATCHED FROM OIPE			
8	03/16/2004	APPLICATION IS NOW COMPLETE			
7	01/30/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	12/01/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	11/12/2003	CASE CLASSIFIED BY OIPE			
3	11/12/2003	CLEARED BY OIPE CSR			
2	10/09/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/28/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,286,216 B2

DATED : **October 23, 2007**

INVENTOR(S): Fukuhara et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 232 days

Delete the phrase "by 232 days" and insert – by 265 days--